

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



75-1386

ORIG

DOCKET NO. 75-1386

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

---

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

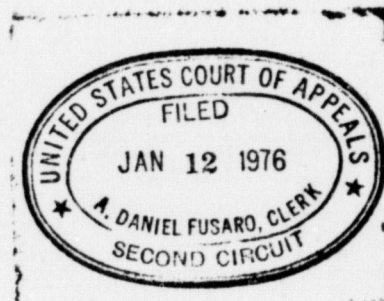
-against-

ARTHUR G. SCHUFFMAN,

Defendant-Appellant.

---

RECORD ON APPEAL



*Benjamin J. Golub*  
*10 East 40<sup>th</sup> Street*  
*New York, N.Y. 10016*

PAGINATION AS IN ORIGINAL COPY



UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

-----X  
UNITED STATES OF AMERICA,

Plaintiff-Appellee,

-against-

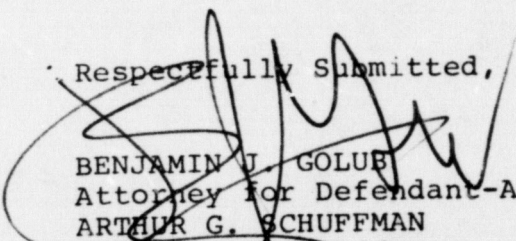
ARTHUR G. SCHUFFMAN,

Defendant-Appellant.  
-----X

Docket No: 75-1386

RECORD ON APPEAL

Respectfully Submitted,

  
BENJAMIN U. GOLUB  
Attorney for Defendant-Appellant  
ARTHUR G. SCHUFFMAN  
Office & P.O. Address  
10 East 40th Street  
New York, New York 10016  
(212) 686-4300

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

- v -

ARTHUR G. SCHUFFMAN,

Defendant.

INDICTMENT

75 Cr.

The Grand Jury charges:

Introduction

1. At all relevant times herein, the defendant, ARTHUR G. SCHUFFMAN was the president and sole principal of Perthshire Scotch Whisky, Ltd. (hereinafter referred to as "Perthshire"), a New York corporation.
2. The defendant ARTHUR G. SCHUFFMAN caused the incorporation of Perthshire on April 27, 1973, and its dissolution on November 12, 1973.
3. Perthshire was in the business of selling scotch whisky stored in warehouses in the United Kingdom to the American consuming public for investment purposes.
4. During the period of its existence Perthshire was located at 386 Park Avenue South, New York, New York pursuant to a lease agreement signed on behalf of Perthshire by the defendant, ARTHUR G. SCHUFFMAN.
5. During the period of its existence Perthshire maintained two bank accounts at the Chase Manhattan Bank, N.A., 255 East 66th Street, New York, New York. The first account, entitled "Perthshire Scotch Whisky, Ltd.," was opened on behalf of Perthshire by the defendant, ARTHUR G. SCHUFFMAN on April 23, 1973 and closed by him on November 1, 1973. The second account, entitled "Perthshire Scotch Whisky, Ltd. 'SPECIAL ACCOUNT'" was opened on behalf of Perthshire by the defendant, ARTHUR G. SCHUFFMAN on April 23, 1973, and closed by him on October 15, 1973.

ONLY COPY AVAILABLE



6. During the period of its existence, Perthshire had three employees: the defendant, ARTHUR G. SCHUFFMAN and two secretaries: Barbara Antonucci and Gloria Bjorkstrom.

COUNTS ONE THROUGH TWENTY-SEVEN

The Grand Jury further charges:

1. From on or about April 27, 1973, up to and including the date of the filing of this indictment, in the Southern District of New York and elsewhere, ARTHUR G. SCHUFFMAN, the defendant, unlawfully, wilfully and knowingly did devise and intend to devise a scheme and artifice to defraud and for obtaining money and property from potential investors in scotch whisky (hereinafter referred to as "the persons to be defrauded") by means of false and fraudulent pretenses, promises and representations.

Object of the Scheme And Artifice to Defraud

2. It was a part of said scheme and artifice to defraud alleged in paragraph 1 hereinabove that the defendant, ARTHUR G. SCHUFFMAN would and did induce the persons to be defrauded to invest monies for the purchase of various quantities of White Abbey Blend scotch whisky based upon false, fraudulent and (misleading statements,) including among others, that they would make substantial profits by investing in White Abbey Blend.

3. Among the means by which the defendant, ARTHUR G. SCHUFFMAN would and did carry out the aforesaid scheme and artifice to defraud were the following:

a) The defendant would and did approach the persons to be defrauded through advertisements placed in various periodicals, unsolicited mailings, and unsolicited telephone calls in which he would describe the "very handsome profit - sometimes double under normal marketing conditions"

133.  
71.  
available to investors in scotch whisky. The defendant would and did falsely and fraudulently cause certain of these materials to be signed "Michael McDaniel, Advertising Director," when in truth and in fact as he well knew, there was no such person holding such a position at Perthshire.

b) When the persons to be defrauded responded to the defendant's approach, and in some instances even when they did not, the defendant under cover of a letter signed "Michael McDaniel, Advertising Director" would and did cause to be mailed to them a Perthshire brochure and other promotional material describing scotch whisky as a secure and profitable investment and describing Perthshire as a specialist and expert in the field.

c) A short time after the brochure and other materials had been mailed, the defendant would and did telephone the persons to be defrauded and cause them to be telephoned, and make and cause to be made a specific offer to sell them six year old White Abbey Blend scotch whisky at a price of \$6.80 per gallon.

d) During the telephone conversation with the persons to be defrauded, and in promotional materials mailed to them, the defendant would and did make and cause to be made the following false, fraudulent and misleading statements, among other:



i) blended whisky is the best investment in scotch whisky;

ii) only a limited amount of White Abbey Blend is available;

iii) investment in scotch whisky is a low-risk, high-profit opportunity;

iv) an investment in White Abbey Blend at \$6.00 per gallon will return a profit of up to 50% after two years;

v) Perthshire guarantees that White Abbey Blend will be worth at least \$8.50 per gallon in two years;

vi) the purchaser can sell his holdings at any time after the White Abbey Blend reaches maturity;

vii) Perthshire will repurchase the White Abbey Blend from the persons to be defrauded after it has been held for two years, or will assist the persons to be defrauded in disposing of the whisky; and

viii) like a master piece of art or a rare antique scotch whisky appreciates in value as it ages;

c) The defendant would and did conceal from persons to be defrauded, certain material facts, including among others:

i) White Abbey Blend is of inferior quality, is valued at approximately \$1.25 per gallon, and will never significantly increase in value;

ii) except for certain well known brands, which does not include White Abbey Blend, blended scotch whisky is a less valuable commodity and more difficult to dispose of than malt whisky or grain whisky;

iii) only certain scotch whisky appreciates with increasing age;

iv) the value of six year old White Abbey Blend is purely a function of market supply and demand and is unrelated to increasing age;

v) small parcels of whisky such as Perthshire was selling to the persons to be defrauded are difficult to dispose of and are less valuable than large parcels of the same whisky;



vi) in some cases the White Abbey Blend was not of the age that was promised;

vii) Perthshire was not an expert or specialist in scotch whisky but had been established only a short time before the telephone calls were made to the persons to be defrauded;

viii) Perthshire was not a large or established firm with many employees but operated out of two rooms with a staff that consisted of the defendant and two secretaries;

ix) Perthshire would not repurchase the whisky after two years or assist the persons to be defrauded in any way in disposing of the whisky, but would close its doors leaving no forwarding address; and

x) the 'Perthshire Scotch Whisky, Ltd. "SPECIAL ACCOUNT"' was merely an ordinary checking account to which the defendant had total and unimpaired access.

f) After the persons to be defrauded had been induced by the defendant's false and fraudulent misrepresentations to order a certain amount of White Abbey Blend, the defendant would and did cause a letter to be sent to them confirming the order and directing them to send a check to the Chase Manhattan Bank, N.A., 255 East 86th Street, New York, for deposit in the "Perthshire Scotch Whisky, Ltd. 'SPECIAL ACCOUNT.'" The defendant would and did falsely and fraudulently cause these letters to be signed "Thomas Patterson, Director," when in truth and in fact, as he well knew, there was no such person holding such a position at Perthshire.

4) On or about the dates hereinafter set forth, in the Southern District of New York, ARTHUR G. SCHUFFMAN, the defendant, for the purpose of executing the scheme and artifice to defraud as alleged in paragraphs 1 through 3 hereinabove, and attempting to do so, unlawfully, wilfully and knowingly did place and cause to be placed in post offices and authorized depositories for mail matter and did

REB:bj  
M-171

cause to be delivered by mail according to the directions thereon matter to be delivered by the United States Postal Services, to wit: checks for deposit in the "Perthshire Scotch Whisky, Ltd. 'SPECIAL ACCOUNT,'" addressed to the Chase Manhattan Bank, N.A., 255 East 86th Street, New York, New York, in the approximate amounts hereinafter set forth in Counts 1 through 27.

<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>AMOUNT OF CHECK TO PERTSHIRE</u>
✓ 1	6/3/73	William Lovell Bowling Green, Ky.	\$850.00
2	6/5/73	Loran Snow Memphis, Tenn.	\$1,700.00
3	6/7/73	T.R. Sanders Hollandale, Miss.	\$1,700.00
4	6/8/73	Renold Marcon Idaho Falls, Idaho	\$340.00
5	6/8/73	E.B. Newsome Moscow, Idaho	\$1,700.00
6	6/13/73	Nicholas Mayer La Porte, Indiana	\$1,700.00
7	6/14/73	Euland Williams Idaho Falls, Idaho	\$1,700.00
8	7/1/73	H.D. Lowe Campbellsville, Ky.	\$6,300.00
9	7/3/73	Charles Roscoe Helena, Arkansas	\$1,700.00
10	7/5/73	Wilfred Henry Missoula, Montana	\$3,400.00
11	7/5/73	Renold Marcon Idaho Falls, Idaho	\$1,360.00
12	7/6/73	Luther Curtis Martinsville, Ind.	\$1,700.00
13	7/6/73	Howard Douglas Lexington, Tenn.	\$1,700.00
14	7/21/73	Lloyd Miller Dartmouth, Mass.	\$350.00
15	8/6/73	David McLain Columbia, Tenn.	\$850.00
16	8/6/73	John White Leominster, Mass.	\$3,400.00

ONLY COPY AVAILABLE



<u>COUNT</u>	<u>DATE</u>	<u>SENDER</u>	<u>AMOUNT OF CHECK TO PERTSHIRE</u>
17	8/15/73	Richard Witchey Mansfield, Ohio	\$850.00
18	8/17/73	Nicholas Hayer LaPorte, Indiana	\$3,400.00
<del>19</del>	<del>8/18/73</del>	<del>William Lovell Bowling Green, Kentucky</del>	<del>\$850.00</del>
20	8/20/73	Vel Durham Oak Park, Illinois	\$3,400.00
<del>21</del>	<del>8/22/73</del>	<del>Pauland Williams Idaho Falls, Idaho</del>	<del>\$1,700.00</del>
<del>22</del>	<del>8/23/73</del>	<del>Robert Faris Indianapolis, Indiana</del>	<del>\$1,700.00</del>
<del>23</del>	<del>8/24/73</del>	<del>Lorger Snow Memphis, Tennessee</del>	<del>\$3,400.00</del>
24	8/27/73	M. D. Lowe Campbellsville, Kentucky	\$3,800.00
<del>25</del>	<del>9/16/73</del>	<del>David McLain Columbia, Tennessee</del>	<del>\$850.00</del>
26	9/11/73	Richard Witchey Mansfield, Ohio	\$2,040.00
<del>27</del>	<del>9/13/73</del>	<del>John White Leopinston, Massachusetts</del>	<del>\$8,560.00</del>

(Title 18, United States Code, Section 1341)

COUNTS TWENTY-EIGHT THROUGH THIRTY

The Grand Jury further charges:

1. The allegations contained in paragraphs 1, 2 and 3 of Counts One through Twenty-Seven of this indictment are repeated, realleged and incorporated as though fully set forth herein.

2. On or about the dates hereinafter set forth, in the Southern District of New York, ARTHUR G. SCHUFFMAN, the defendant, for the purpose of executing the scheme and artifice to defraud as alleged in paragraph 1 hereinabove, and attempting to do so, unlawfully, wilfully and knowingly did place and cause to be placed in post offices and authorized

depositories for mail matter, and did cause to be delivered by mail according to the directions thereon, matter to be delivered by the United States Postal Service, addressed as hereinafter set forth in Counts 28 through 30:

<u>COUNT</u>	<u>DATE</u>	<u>ADDRESSEE</u>
28	5/31/73	Dr. William L. Lovell 1600 Eastland Drive Bowling Green, Kentucky 42101
29	8/24/73	Mr. J. D. McClain P. O. Box 422 Columbia, Tenn. 38401
30	9/5/73	Mr. N. Mayer 607 Pine Lake Avenue La Porte, Indiana 46350

(Title 18, United States Code, Section 1341)

---

Foreman

---

PAUL J. CURRAN  
United States Attorney



---

---

**United States District Court**

SOUTHERN DISTRICT OF NEW YORK

---

---

THE UNITED STATES OF AMERICA

vs.

ARTHUR G. SCHUFFMAN,

Defendant.

---

---

**INDICTMENT**

18 USC §1341

PAUL J. CURRAN

*United States Attorney.*

A TRUE BILL

---

*Foreman.*

---



**JUDGE WENFELD**

D. C. Form No. 100 Rev.

(05)	STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
	J.C. 2 mailed	Clerk				
	J.S. 3 mailed	Marshal				
	Violation	Docket fee				
	Title 18					
	Sec. 1341					
	Mail fraud,					
	(Thirty Counts)					

DATE	PROCEEDINGS
5-27-75	Filed indictment.
6-9-75	Deft. present (Atty. present) enters a plea of not guilty. 10 days for motions. Bail: Deft. released on his own recognizance. To surrender passport in two weeks. Bail restrictions to District of Florida (Jacksonville and Miami) also Central California. Must notify AUSA of any move from present domicile. Financial affidavit not accepted by court. Case assigned to Weinfeld, J. for all purposes. Palmieri, J.
06-27-75	Filed defts. affdt. and notice of motion to take testimony of witnesses and the expense should be paid by the govt.; inspect grand jury minutes, to dismiss, etc. Ret. on: date to be fixed by court.
07-09-75	Filed govts. notice of readiness for trial.

DATE	PROCEEDINGS
07-16-75	Filed stip. and order that the hearing on defts. omnibus motions filed June 27, 1975 is adj. to July 22, 1975. So ordered, Weinfeld, J.
07-22-75	Case called. Trial date set for Monday, Sept. 29, 1975 at 10am. in Rm. 128. Weinfeld, J.
07-24-75	Filed govts. memorandum of law.
07-24-75	Filed govts. affdt. of Robert Hemley in response to the omnibus discover. motion.
07-24-75	Filed govts. bill of particulars.
07-26-75	Filed letter dated June 10, 1975 from Benjamin Golub, atty. re: whether or not deft. may proceed in forma pauperis with memo end.: Matter referred to Mag. Schreiber for immediate hearing and to report to the court. Weinfeld, J. m/n
07-26-75	Filed report and recommendation of Mag. Schreiber stating that deft. may proceed in forma pauperis and is entitled to have an atty. defend him from the CJA panel.
07-24-75	Filed. memo end. on defts. motion dated June 27, 1975--Motion disposed of as indicated at oral argument. So ordered, Weinfeld, J. (transcript which is not docketed in this case was sent to the Court Reporters for certification)
08-05-75	Filed defts. affdt. and notice of motion for reargument of motion heard on July 22, 1975, take deposition, etc. ret. on: Aug. 12, 1975.
08-05-75	<i>Filed Transcript of record of proceedings, dated June 9, 1975</i>
08-06-75	Filed defts. memorandum of law.
08-14-75	Filed memo end. on defts. motion dated June 27, 1975--All branches of the motion are denied with the exception of the motion seeking authorization for an expert witness, which is adj. to Sept. 16, 1975 at 2:15pm. So ordered, Weinfeld, J. mn
08-27-75	Filed transcript of hearing before Magistrate Schreiber on 6-18-75 (not certified)
09-08-75	Filed letter from defts. atty. dated Aug. 30, 1975 re: retain expert witness at govt. expense with memo end.---The motion for retention of an expert by the deft. is granted in view of the fact that the govt. intends to call an expert. The fees to be paid to the expert shall be reasonable and subject to court approval, etc. Weinfeld, J. m/n
09-18-75	<i>Filed Transcript of record of proceedings, dated Aug 12, 1975</i>
09-29-75	<i>Filed Transcript of record of proceedings, dated July 22, 1975</i>
9-29-75	Jury trial begun before Weinfeld, J.
9-30-75	Jury trial contd.
10-1-75	"
10-2-75	Jury trial contd. Govt. rests and ct. 10 is dismissed on consent.
10-3-75	Jury trial contd.
10-6-75	Jury trial contd. and concluded. Jury returns verdict of GUILTY on cts. 1 thru 9 and 11 thru 30. PSI ordered. Sent. adj. to Friday, Nov. 7, 1975 at 10am in Rm. 506. Dft. contd. ROR. Weinfeld, J.



C. 110 Rev. 5-78 Docket Continuation		PROCEEDINGS	Date Order or Judgment Noted
DATE			
1-7-75	Filed transcript dated Sept. 29, 30, 1975; Oct. 1, 2, 1975.		
1-7-75	Filed transcript dated Oct. 3, 6, 1975.		
1-7-75	Filed JUDGMENT--(atty. Benjamin Golub, present)--the deft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of TWO(2) YEARS on each of cts. 1 thru 9 and 11 thru 30 to run concurrently with each other, pursuant to the Section 3651 of Title 18, USC as amended with provision deft. be confined in a Jail type institution for a period of SIX(6) MONTHS as provided in theaforesaid section. Execution of the remainder of the sentence is suspended. Deft. placed on probation for a period of TWO(2) YEARS to commence upon the expiration of confinement, subject to the standing probation order of this court. Deft. contd. released on own recognizance pending appeal on condition that the appeal is filed expeditiously. Appendix on appeal, record and briefs to be filed within thirty(30) days. Weinfeld, J. (copies issued)		

**ADMISSION OF SERVICE**

The undersigned acknowledges receipt of a copy of  
the within .

on 19  
at o'clock M.

Attorney(s) for

by: .....

**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF NEW YORK  
COUNTY OF NEW YORK

Cathie Weitekamp, being sworn, says:  
I am not a party to this action; I am over 18 years  
of age; I reside at Queens, New York

On November 26, 1975 I served  
the within RECORD ON APPEAL  
upon ROBERT HEMLEY,

Assistant U.S. Attorney,  
the attorney(s) for U.S.A. in this  
action, at 2 St. Andrews Plaza,  
New York, New York  
the address designated by said attorney(s) for that  
purpose by depositing a true copy of same enclosed  
in a postpaid, properly addressed wrapper, in an  
official depository under the exclusive care and  
custody of the United States Postal Service within  
the State of New York.

Cathie Weitekamp  
Type or Print Name Below Signature  
CATHIE WEITEKAMP

Sworn to before me

this 26th day of November, 1975 .

Notary Public  
GOLUB  
at New York  
City  
Term Expires 1977



The undersigned, an attorney admitted to practice in the State of New York, affirms: That the undersigned is  
the attorney(s) of record for  
in the within action; that the undersigned has read the foregoing  
and knows the contents thereof; that the same are true to affirmant's own knowledge, except as to the matters therein  
stated to be alleged on information and belief; and as to those matters affirmant believes them to be true.

The undersigned further states that the reason this affirmation is made by the undersigned and not by

The grounds of affirmant's belief as to all matters not stated to be upon affirmant's knowledge, are as follows:

The undersigned affirms that the foregoing statements are true, under the penalty of perjury.

Dated:

19

.....  
Type or Print Name Below Signature